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1 consider Certificate of Environmental Compatibility (“CEC”) applications, all in an effort
2 to resurrect SRP’s poorly planned and hurried Coolidge Expansion Project (“CEP”). The
3 Commission’s decision to deny the CEP is on strong legal grounds. The record in this case,
4 and the numerous deficiencies in the Application, demanded the Commission issue the
5 Order and reject the CEC for the CEP.

6 In Section I of this Response, Sierra Club explains that the Commission acted
7 legally and well within its authority when it issued the Order denying the CEC. Sierra Club
8 highlights SRP’s admission in its Request that it failed to provide studies required by law
9 and exposes how, if accepted, SRP’s legal arguments would altogether strip the
10 Commission of its obligation to consider and rule on CEC applications. In Section II, Sierra
11 Club explains how SRP’s claims regarding evidence in the record related to the Randolph
12 community are objectively false and misleading and must be rejected. Finally, in Section
13 III, Sierra Club moves to strike pages of new “evidence” that SRP seeks to introduce after
14 the record has closed and explains that the Commission is legally prohibited from
15 considering this new information.

16 **I. The Commission Acted Within Its Authority When It Denied The CEC**

17 SRP argues that the Commission exceeded its authority when it rejected the CEC.
18 That assertion is plainly false. A.R.S. §40-360.07(B) provides that the Commission “shall
19 [] either confirm, deny or modify any certificate granted by the committee.” In evaluating
20 the CEC, A.R.S. §40-360.07(B) further *requires* the Commission to comply with A.R.S.
21 §40-360.06 and to also “balance, in the broad public interest, the need for an adequate,
22 economical and reliable supply of electric power with the desire to minimize the effect
23 thereof on the environment and ecology of this state.” A.R.S. §40-360.06 lists the factors
24 that the Arizona Power Plant and Line Siting Committee and the Commission “*shall*”
25 consider in the proceeding. The record reflects that these factors were properly considered.
26 The statute requires evaluations of the existing site, noise emissions, visual impacts, the
27 total environment of the area, the technical practicability of the project, and critically, the
28 estimated cost of the facilities and site as proposed – with the express recognition that “any

1 significant increase in costs represents a potential increase in the cost of electric energy to
2 the customers or the applicant.”¹

3 Accordingly, the Commission is charged with evaluating the project’s compatibility
4 with the surrounding environment, evaluating the technical practicability of the project for
5 meeting its stated objective, and finally, evaluating the costs involved with the proposed
6 project because those costs will impact ratepayers. In this docket, the Commission’s denial
7 of the CEC was based on these factors.² The Commission found that the CEP was not
8 compatible with the proposed site or the total environment of the area.³ It also found that
9 the CEP could not be approved based on the estimated cost provision because the record
10 provided no evidence detailing the CEP’s impact on ratepayers or whether lower-cost
11 alternatives were available.⁴

12 SRP understands that the Commission evaluates siting applications based on the
13 criteria described above. In its request for rehearing, SRP confirms that the Commission’s
14 “decisions must be based on factors within its statutory authority to consider.”⁵ To be sure,
15 the Order is based on those factors, but SRP attempts to obfuscate that fact by making
16 inaccurate claims about the Commission’s authority, each of which are detailed below.

17 As explained in the sections below, SRP’s application was deficient and the legal
18 analysis SRP asks the Commission to adopt would undermine the Commission’s authority,
19 rendering the siting statutes meaningless.

20 **A. SRP’s Application is incomplete and SRP admits it never provided a power**
21 **flow and stability analysis with its 90-day plan.**

22 A.R.S. §40-360.02(B) states that “[e]very person contemplating construction of any
23 plant within the state *shall file a plan with the commission ninety days* before filing an
24 application for a certificate of environmental compatibility.”⁶ A.R.S. §40-360.02 further
25 specifies that “plans for any new facilities *shall include* a power flow and stability analysis

26 ¹ A.R.S. §40-360.06(A)(8)(emphasis added).

27 ² See Decision No 78545 at 11:18-20.

28 ³ *Id.* at 11:5-12.

⁴ *Id.* at 10:26 – 11:4.

⁵ Request at 9:13-14.

⁶ A.R.S. §40-360.02(B)(emphasis added).

1 report showing the effect on the current Arizona electric transmission system.”⁷ Thus, SRP
2 is required by law to submit a power flow and stability analysis ninety days prior to filing
3 its CEC application.

4 After obfuscating on this issue for months, SRP finally admits in its Request that it
5 *never* provided this power flow and stability analysis to the Commission. In fact, SRP even
6 emphasizes that this information was withheld from the Commission, stating that “[t]he
7 Commission made no such request” for the study.⁸ (emphasis in original). A.R.S. §40-
8 360.02(B) does not say that the study is only to be provided upon request, rather it says the
9 plans submitted to the Commission along with the required 90-day plan “*shall include*”
10 the study.

11 In addition to SRP’s admission in its Request, SRP’s failure to submit the study was
12 recognized as a problem during the hearing in front of the Power Plant and Transmission
13 Line Siting Committee. Member Little explained, “[a]s long as we’re discussing issues that
14 are bothering us, I guess I should say, I do have one also that – and that is under 40-360.02,
15 one of the things that should have been included in the filing with the Commission was the
16 power flow and stability analysis reports. And to my knowledge, those are not done yet,
17 and we have not heard anything from the applicant about when they anticipate they will be
18 done. And this is just a concern that I have right now.”⁹ In light of SRP admitting what the
19 Committee and the Commission already knew, that the study was not provided, the
20 Commission can feel confident in the conclusions it reached on this point in the Order.

21 Nevertheless, after plainly and emphatically admitting its 90-day plan did not
22 include the required study, SRP misdirects the Commission and points to an entirely
23 different submittal that is irrelevant and unrelated to the issue at hand. SRP points the
24 Commission to its annual ten-year plan that is applicable to the construction of new
25 transmission lines under A.R.S. §40-360.02(A). Critically, the ten-year plans described
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27 ⁷ A.R.S. §40-360.02(C)(7).

28 ⁸ Request at 11:1.

⁹See Little Tr. Vol. VI at 1094:24-1095:8.

1 under subsection A of the statute are not a prerequisite for a CEC filing for the CEP, while
2 the plans detailed under subsection B – which SRP failed to submit – are a requirement.

3 In conclusion, SRP admits it failed to comply with the operative law on this point
4 and the Order is correct.

5 **B. SRP’s failure to provide the required study alone is grounds for denying the**
6 **CEC.**

7 SRP contends that the Commission lacks authority to review the power flow study
8 in a CEC proceeding.¹⁰ However, it is clear that SRP’s admitted failure to provide the study
9 is by itself sufficient grounds for the Commission to reject the Application. A.R.S. §40-
10 360.02(F) provides that the “[f]ailure of any person to comply with the requirements of
11 subsection [] B [] constitute[s] a ground for refusing to consider an application of such
12 person.” Again, the Commission is well within its authority on this point.

13 **C. The Commission is obligated to review CEC applications, yet SRP falsely**
14 **claims that this review amounts to the Commission wrongly exercising**
15 **jurisdiction over SRP’s “resource planning.”**

16 SRP claims the Commission’s denial of its CEC amounts to improper infringement
17 on SRP’s “resource planning” decisions. This argument misstates what the Commission
18 does when undertaking its statutorily required duty to review CEC applications.

19 SRP is wrong because the Commission is *required* to review all plant proposals and
20 must decide whether to approve, modify, or deny them. This required review does not
21 constitute involvement in “resource planning.” SRP self-servingly mischaracterizes the
22 Commission’s performance of duties it is authorized and obligated to perform. The
23 Commission’s decision to approve or deny a CEC has numerous impacts on the applicant
24 utility including, for example, impacts on its budget. If a utility was planning to build a
25 plant that is rejected, the utility may need to alter its budget to account for a new allocation
26 of its money. Obviously, the Commission does not have the authority to directly pass or
27 modify SRP’s budget, yet it would be preposterous to argue that when the Commission

28 ¹⁰See *Id.* at 11:13-14

1 denies a CEC it is really infringing on SRP's right to do its own budgeting because it has
2 an indirect impact on the money that SRP will spend. It is equally preposterous to argue
3 here that in denying the CEC for the CEP, the Commission is really engaging in resource
4 planning. The Commission is simply doing what it is obligated to do. To the extent the
5 denial of this project impacts SRP's resource plans, that impact flows indirectly, and is the
6 result of the Commission performing its statutorily obligated duties.

7 If accepted, SRP's argument undermines the entire CEC process and leaves the
8 Commission unable to do its statutorily-required job. By conflating denying a CEC with
9 engaging in "resource planning," SRP proposes to take away the Commission's authority
10 to ever again deny SRP any CEC application. This outrageous argument must be rejected.

11 **D. The Commission has the authority to deny a CEC if the Applicant proposes**
12 **to use technology that causes the application to fail the statutory balancing**
13 **test.**

14 SRP argues that the Commission cannot consider alternative technologies when
15 evaluating a CEC application.¹¹ However, numerous provisions of A.R.S. §40-360.06 and
16 the balancing test required in A.R.S. §40-360.07 not only allow for, but require, the
17 investigation of potential alternatives in order for the Commission to do its job.

18 For example, A.R.S. §40-360.07 requires the Commission to balance the need for
19 economic and reliable power with the desire to minimize the effect of the project on the
20 environment and the ecology of the state. A hypothetical helps to illuminate exactly how
21 this balancing test clearly permits, and in fact requires, the Commission to evaluate
22 alternatives. Take the example of two alternative technologies providing the exact same
23 level of reliability, where Technology A has no impact on the environment while
24 Technology B has devastating impacts on the environment and costs 100 times as much as
25 Technology A. It is illogical to suggest that if a utility proposes environmentally damaging
26 and hugely expensive Technology B, the Commission must ignore the availability of the
27 less expensive and cleaner Technology A when performing its statutorily required

28 ¹¹ *Id.* at 14:16-18.

1 balancing test. That balancing test comes out much differently if Technology B is the *only*
2 alternative available for providing economic and reliable power than if Technology B is
3 both significantly more expensive and much dirtier than an otherwise just as reliable
4 alternative like Technology A.

5 In this hypothetical, it is the very existence of Technology A that renders
6 Technology B uneconomic and unreasonably damaging, causing it to fail the test. Notably,
7 this hypothetical is not dissimilar to the actual situation of this matter where a cleaner and
8 even more reliable alternative exists to the applicant's proposal. Without the knowledge
9 and consideration of alternatives, the Commission has no context within which to perform
10 its balancing test. If every application must be viewed in a vacuum as SRP suggests, then
11 every application would pass the balancing test because every application would represent
12 the *only* option available. This is an absurd outcome that must be rejected.

13 **II. SRP misrepresents its engagement with the Randolph community and** 14 **misstates the record regarding the CEP's impact on Randolph**

15 SRP continues to dismiss the concerns of the community of Randolph in its request
16 for rehearing. In fact, SRP continues to push the project while misrepresenting the record
17 with regard to Randolph. SRP makes two specific assertions that are objectively inaccurate
18 in its request for rehearing. First, SRP incredibly claims that "there is *no evidence* upon
19 which to conclude the community received disparate treatment as compared to a white or
20 affluent community."¹² Second, SRP makes the erroneous claim that "[t]here simply is *no*
21 *contravening evidence in the record* – no site-specific studies, no analyses – to support
22 the Order's findings and conclusions of law regarding environmental justice and health
23 impacts to the Randolph community."¹³ As detailed below, SRP is mistaken on both points.

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28 ¹² Request at 2:5-8 (emphasis added).

¹³ *Id.* at 23:17-19 (emphasis added).

1 Furthermore, the residents of Randolph have made their desires clear: they do not
2 want the CEP to go forward.¹⁴ In fact, just last week, two residents of Randolph submitted
3 comments to the docket voicing their continued opposition.¹⁵ Resident Mary Turner
4 summarized the current position of the Randolph community after Decision No. 78545 was
5 issued:

6 I speak loud and clear that the residents of Randolph STRONGLY, I say
7 STRONGLY request that the Arizona Corporation Commission not
8 reconsider SRP's request for a rehearing. Here is the position of the Randolph
9 Residents: 1) We did not ask SRP for \$14 million dollars in mitigations, 2)
10 We did not ask SRP for road paving in and around our community, 3) We
11 did not ask SRP for scholarships and job training, 4) We did not ask SRP for
12 landscaping to screen the expansion and beautify the area, 5) We did not ask
13 SRP for \$4 million dollars in additional measures, 6) We did not ask SRP for
14 additional road paving, 7) We did not ask SRP for home repairs and energy
15 efficiency improvements, and 8) We did not ask SRP for a community center
16 but what we have asked SRP is to not expand this natural gas generating
17 facility in our community. SRP claims that they want to be a good neighbor,
18 then if so, GIVE THE RANDOLPH RESIDENTS WHAT THEY WANT
19 and that is "no COOLIDGE EXPANSION PROJECT" This is what will
20 make them a good neighbor.¹⁶

21 **A. It is uncontroverted that Randolph received disparate treatment when**
22 **compared to previous communities.**

23 The difference between SRP's treatment of Randolph residents and the residents of
24 other communities was discussed at length during the hearing. Specifically, the Committee
25 heard evidence contrasting SRP's engagement with the Town of Gilbert when it
26 constructed the expansion of its Santan Generating Station with SRP's engagement with
27 Randolph in this case. The record shows that the treatment of these two communities was
28 dramatically different.

29 In the Gilbert case, SRP entered into an intergovernmental agreement with the Town
30 of Gilbert to address and mitigate the concerns of that community *before it even filed its*

31 ¹⁴ See Randolph Residents Brief at 28:19-20.

32 ¹⁵ See Consumer Comments – In Opposition dated May 18, 2022.

33 ¹⁶ *Id.* (emphasis in original).

1 *application* for a CEC.¹⁷ And in that case, the concerns of Gilbert residents were largely
2 the same as those of the residents of Randolph today. The Gilbert project's final CEC
3 featured numerous conditions agreed upon by community stakeholders to mitigate the
4 plant's visual and noise impacts, as well as to address concerns from nearby property
5 owners regarding potentially diminished property values.¹⁸

6 Conversely, residents of Randolph complained that SRP had little or no engagement
7 with them from the outset. Witness Melvin Moore – a 30-year resident of Randolph –
8 testified that he was never contacted by SRP about the expansion.¹⁹ Instead of meeting with
9 the community and addressing its concerns before filing the CEC application, SRP
10 attempted to negotiate the project's mitigation efforts during a single break lasting less than
11 an hour on the last day of the Power Plant and Line Siting hearing. As a result, the
12 Committee tried to adopt some of the Gilbert CEC's conditions to the CEP CEC.²⁰ Those
13 last-minute efforts proved difficult, however, because Randolph was not afforded the lead
14 time that Gilbert had. As Member Gentles observed, "when you go back and look at the
15 Gilbert CEC, they clearly had extensive conversations before they came to the CEC
16 deliberation, on what they were willing to do. That is just not evident here in this
17 condition."²¹

18 SRP's claim that there is "no evidence" to suggest Randolph received disparate
19 treatment is unarguably false: SRP made the effort to meet with stakeholders in Gilbert and
20 reach a detailed agreement with them regarding mitigation efforts *before* applying for a
21 CEC. In stark contrast, here the record clearly reflects that Randolph residents received
22 almost no meaningful attention from the utility until the final day of the hearing.

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27 ¹⁷ See Application in Docket No. L-00000B-00-0105.

¹⁸ See Decision No. 63611.

¹⁹ See Moore Tr. Vol. V at 860:12-14.

²⁰ See Little Tr. Vol. VII at 1399:6-12.

²¹ Gentles Tr. Vol. VIII at 1428:16-19.

1 **B. The record is full of evidence supporting Decision No. 78545's**
2 **environmental justice and health impact conclusions regarding the**
3 **Randolph community.**

4 In Decision No. 78545, the Commission made the following determination
5 regarding the CEP's impact on Randolph:

6 The evidence of record shows that the proposed CEP will negatively affect
7 the total environment of the area and state and *have significant negative*
8 *impacts on residents in Randolph from noise levels during construction*
9 *and operation of the Project, increased lighting, emissions of greenhouse*
 *gases, worsened air quality, degraded views, and lower property values.*²²

10 SRP now makes the incredible assertion that there is "no evidence" to support this
11 finding.²³ This assertion is objectively false. Contrary to SRP's assertion, the
12 Commission's finding above is supported by voluminous evidence from multiple
13 witnesses. Evidence from the record regarding each element of the Commission's finding
14 is detailed below.

15 1. The evidence demonstrates the proposed CEP will have significant
16 negative impacts on residents of Randolph from noise levels during construction
17 and operation of the project.

18 Residents of Randolph described noise emissions from the current plant as a
19 "constant light humming" whenever the gas turbines are operating.²⁴ The problem was
20 expected to worsen with the expansion, as the number of turbines in operation would more
21 than double from 12 units to 28, and SRP confirmed that an increase from existing sound
22 levels would occur.²⁵ Despite more than doubling the units in operation, SRP's consultant
23 testified that the increased noise would be "barely noticeable."²⁶ That claim fell apart,
24 however, after the consultant admitted that he did not know whether the plant had been
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27 ²² Decision No. 78545 at 11:5-8(emphasis added).

28 ²³ Request at 23:17-19.

²⁴ Jordan Tr. Vol. V at 908:23-25.

²⁵ See Ex. SRP-1 at I-4, Noise Impacts from Proposed Project: Conclusions.

²⁶ Petry Tr. Vol. III at 556:8.

1 operating any time he visited the project area.²⁷ To make matters worse, he admitted that
2 his testimony regarding noise levels was not based on his own conclusions and that he
3 could not verify them based on firsthand experience.²⁸ As such, SRP's witness – with no
4 firsthand knowledge of the plant's noise emissions – made the dubious assertion that
5 operating 16 new jet engine turbines within 1000 ft. of Randolph would be "barely
6 noticeable" – an idea that anyone who has been near an airport would know is highly
7 improbable. As such, the record showed that an increase in noise emissions was certain to
8 occur, but SRP presented no credible evidence that the increase would not significantly
9 worsen noise levels in Randolph.

10 2. The evidence demonstrates the proposed CEP will have significant
11 negative impacts on residents of Randolph from increased lighting and degraded
12 views.

13 Residents of Randolph testified that the current plant's lighting disturbs them at
14 night. The light pollution is so significant that residents must keep their blinds closed.²⁹
15 Others complained that the lights interfered with their sleep.³⁰ Photographs of the plant's
16 lighting at night taken from a witness's backyard were presented to the Committee.³¹ As
17 that witness described the view, "I look over there and it looks like the city of Mesa."³²

18 On the other hand, SRP's witness asserted that the CEP's visual impact would be
19 compatible with the location.³³ However, he then admitted that his analysis ignored the
20 visual impacts of the plant at night.³⁴ Indeed, despite testifying that the CEP will not have
21 negative visual impacts, he confessed that he had never even viewed the existing plant at
22 night.³⁵ Thus, SRP's witness concluded that the project's lighting was compatible with the
23 surrounding area despite never once visiting or seeing the plant at night. This finding was

24 ²⁷ See Petry Tr. Vol. IV at 639:13-18.

25 ²⁸ See *Id.* at 639:19 – 640:4.

26 ²⁹ See Moore Tr. Vol. V at 861:21-25.

27 ³⁰ See *Id.* at 862:1-2.

28 ³¹ See Ex. RR-2

29 ³² Jordan Tr. Vol. V at 907:14-15.

30 ³³ See Petry Tr. Vol. III at 550:3-5.

31 ³⁴ See Petry Tr. Vol. IV at 653:19-25.

32 ³⁵ See *Id.* at 647:9-10.

1 directly contradicted by the testimony of local residents. Accordingly, the record showed
2 that SRP did not evaluate the nighttime visual impacts of the CEP, and that residents are
3 already suffering from the consequences of the existing plants, which would be exacerbated
4 by the project.

5 3. The evidence demonstrates the proposed CEP will have significant
6 negative impacts on residents of Randolph from emissions of greenhouse gases.

7 Extensive testimony was presented regarding the impact of increased carbon
8 emissions in Pinal County and on the area surrounding the plant. Intervenor Sierra Club
9 and Western Resource Advocates each presented evidence demonstrating the importance
10 of curbing carbon emissions immediately.³⁶ Sierra Club witness Sandy Bahr testified that
11 “Pinal County is among the counties in the U.S. at greatest risk relative to climate change
12 when you look at the cumulative risks for heat, crop yield, economic damage, and other
13 factors.”³⁷

14 4. The evidence demonstrates the proposed CEP will have significant
15 negative impacts on residents of Randolph from worsened air quality.

16 Sierra Club witnesses also presented testimony detailing the health impacts and
17 costs that will result from increased particulate emissions levels coming from the CEP.
18 Witness Cara Bottorff testified that Environmental Protection Agency (“EPA”) models
19 indicate that the CEP would increase total healthcare costs between \$9.5 million and \$21.5
20 million in a single year. The bulk of these costs, about three-quarters, or between \$7 million
21 and \$16 million, would be borne by people living in Arizona.³⁸ Those figures represent
22 costs stemming from increases in mortality rates, infant mortality rates, heart attacks, and
23 multiple respiratory illnesses that will result from the exposure to air pollution from the
24 plant.³⁹ Conversely, nowhere in the record did SRP contest that the CEP would cause those

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27 ³⁶ See e.g. Ex. SC-23, Climate Change 2021: The Physical Science Basis: Summary for Policymakers.

28 ³⁷ Bahr Tr. Vol. VII at 1194:20-23 citing Ex. SC-25.

³⁸ See Bottorff Tr. Vol. VII at 1211:24 – 1212:4.

³⁹ See Ex. SC-28, Health Impact of Coolidge Expansion, COBRA Results and NPV.

1 numerous health problems. Instead, SRP chose to largely ignore the project's health
2 impacts and did not prepare any health impacts modeling to evaluate the CEP.⁴⁰

3 6. The evidence demonstrates the proposed CEP will have significant
4 negative impacts on residents of Randolph from lower property values.

5 Intervenor also provided expert witness testimony detailing diminished property
6 values in Randolph. Real estate economist Mark Stapp testified that because the CEP
7 would be adjacent to the Randolph residents' properties, it would make their neighborhood
8 less desirable.⁴¹ Mr. Stapp described how development from the metro Phoenix area is now
9 pushing substantially into the Florence and Coolidge areas, which is driving economic
10 expansion in those areas.⁴² He went on to testify that because of the CEP, the residents of
11 Randolph would not be able to benefit from that economic growth and instead would be
12 precluded from it as a result of their proximity to the expanded plant.⁴³

13 **III. Motion to Strike**

14 The Commission is prohibited by statute from considering matters outside of the
15 record in the siting hearing. Under A.R.S. §40-360.07(B), "[t]he committee shall transmit
16 to the commission the complete record, including a certified transcript, *and the review*
17 *shall be conducted on the basis of the record.*"⁴⁴ Nonetheless, SRP makes numerous new
18 and unsubstantiated claims in its Request that are not part of that record, have not been
19 vetted or tested, and must not be considered. Accordingly, Sierra Club hereby moves to
20 strike SRP's attempts to introduce new evidence into this record. Pursuant to Rule 7.1(f)
21 of the Arizona Rules of Civil Procedure, motions to strike are authorized when seeking "to
22 strike any part of a filing or submission on the ground that it is prohibited, or not authorized,
23 by a specific statute, rule, or court order." A.R.S. §40-360.07(B) prohibits the Commission
24 from considering any facts not in the record of the proceeding in front of the Siting
25 Committee. This motion to strike is therefore appropriate.

26 ⁴⁰ See Watt Tr. Vol. IV at 668:19-21.

27 ⁴¹ See Stapp Tr. Vol. VI at 1064:14 – 1065:13.

28 ⁴² See *Id.* at 1064:7-13.

⁴³ See *Id.* at 1065:7-13.

⁴⁴ A.R.S. §40-360.07(B) (emphasis added).

1 As SRP states in the Request, “[d]uring the eight-day evidentiary hearing, reflected
2 in a transcript over 1,500 pages long, the Power Plant and Line Siting Committee carefully
3 considered the testimony of 23 witnesses and even more public commenters.”⁴⁵
4 Nevertheless, despite this robust record on which the Commission rightly relied in
5 rendering the Order, SRP openly attempts to supplement this record with new,
6 inadmissible, evidence, beginning on page 5 of the Request. All new facts introduced after
7 SRP writes, “[s]ince the eight-day evidentiary hearing...” must be stricken and cannot be
8 considered by the Commission. Every sentence written between those words on page 5,
9 line 7, through page 7, line 5 includes information and references to facts that were not
10 introduced in any manner in the hearing.

11 Further, SRP admits in its Request that it is proposing “additional conditions”
12 related to its treatment of the Randolph community. None of these conditions were
13 proposed in the hearing, are not part of the record, and, pursuant to A.R.S. §40-360.07(B),
14 cannot be considered at this time. *See Tilley v. Delci*, 220 Ariz. 233, 238, ¶ 17, 204 P.3d
15 1082, 1087 (App. 2009) (The court is not required to consider evidence presented to it for
16 the first time in connection with a motion for reconsideration.). SRP includes purported
17 costs for new proposed measures that have not been vetted and that the parties have had no
18 opportunity to examine. Because these items are not part of the record and cannot be
19 considered, Sierra Club moves to strike page 8, line 10, thru page 8, line 22.

20 **IV. Conclusion**

21 In light of the forgoing, Sierra Club respectfully requests that the Commission enter
22 an order; 1) striking page 5, line 7, through page 7, line 5, and page 8, line 10, thru page
23 8, line 22; and 2) denying the Request.

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⁴⁵ Request at 4:12-14

